

# EXHIBIT D

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Index No.  
08-01789 (BRL)

Debtor.

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IRVING H. PICARD, as Trustee for the  
Liquidation of BERNARD L. MADOFF  
INVESTMENT SECURITIES LLC,

Plaintiff,

Adv. Pro No.  
09-1172 (BRL)

v.

STANLEY CHAIS, et al.,

Defendants.

-----x  
May 5, 2010  
United States Custom House  
One Bowling Green  
New York, New York 10004

In Re: Hearing

B E F O R E:

HON. BURTON R. LIFLAND,  
U.S. Bankruptcy Judge

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A P P E A R A N C E S:

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6 and Counsel for the Trustee

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9 BY: MARC E. HIRSCHFIELD, ESQ.

10 -and-

11 DAVID J. SHEEHAN, ESQ.

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13 PAUL EYRE, ESQ.

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15 IRVING PICARD, ESQ.

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19 Counsel for Stanley and Paula Chais

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22 BY: EUGENE R. LICKER

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24 WALTER H. CURCHACK, ESQ.

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2 APPEARANCES: (Continued)

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BY: ALAN NISSELSON, ESQ.

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BY: PHILLIP WHITE, ESQ.

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2 APPEARANCES: (Continued)

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6 Attorneys for Peskin, et al

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9 BY: PETER W. SMITH, ESQ.

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12 SECURITIES INVESTOR PROTECTION CORPORATION

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22 New York, New York 10017

23 BY: TRACY L. KLESTADT, ESQ.

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25

1                   And that may be a very important factor in  
2 my consideration of whether or not these counterclaims  
3 stand,

4                   MR. SHEEHAN: Thank you, Your Honor.

5                   MR. WHITE: Thank you, Your Honor.

6                   MR. SHEEHAN: Your Honor, there is one  
7 last item here. Well, there are quite few of them, it's  
8 the fee applications and we have the Trustee and his  
9 counsel as well as a number of other applications.

10                  (Brief recess.)

11                  MR. SHEEHAN: Good morning, Your Honor.

12                  THE COURT: Good morning.

13                  MR. SHEEHAN: This is a return date of a  
14 number of applications for interim allowance of fees on  
15 behalf of a number of parties.

16                  There is only one objection that has been  
17 filed that I am aware of. That is in connection with the  
18 application of Mr. Picard and by his counsel, Baker  
19 Hostetler.

20                  THE COURT: Well, there is a little  
21 reaction which doesn't really appear to be an objection to  
22 the fees but more to the substance to your rejection of a  
23 claim on the part of one Dr. Rudolfo Dawlt (phonetic) in  
24 Zurich, Switzerland, which if you would look at the way it  
25 is titled, it refers to today's hearing but it seems to

1 really regard this particular claim and Trustee's rejection  
2 of it.

3 So unless there is somebody who could  
4 clarify it, I don't regard this specifically as an  
5 objection to fees.

6 MR. SHEEHAN: Your Honor, I have that  
7 letter as well, I have it on my desk and I read it as you  
8 did. Even though it was captioned a claim, the letter was  
9 characteristically an objection to the claim. I turned it  
10 over to our rejection people and they are handling it.

11 With regard to those applications, Your  
12 Honor, not objected to. I won't go into them. I will go  
13 into a brief detail and I would identify the firms  
14 involved. A number of them are firms retained by the  
15 Trustee in connection with actions instituted in foreign  
16 jurisdictions.

17 The first is Schiltz & Schiltz. The next  
18 is Higgs Johnson Truman Bodden & Company, Eugene F.  
19 Collins, Willaim Barristers and Attorneys as Special  
20 Counsel, Attias & Levy, Lovells LLP and Kugler Kandestin.

21 I will leave these sheets with the reporter  
22 so she could have the spelling of these names, Your Honor.  
23 All of these, these are all foreign counsel and there being  
24 no objection, we would move those applications be approved.

25 I should note for the record that Mr. Bell

1 is here, ready to speak.

2 MR. BELL: Kevin Bell, for the Securities  
3 Investment Protection Corporation.

4 With respect to that cluster of special  
5 counsel, SIPC has filed one recommendation and supports the  
6 amounts requested by those various counsel and would  
7 support the entry of an order approving those requests,  
8 Your Honor.

9 THE COURT: Does anyone want to be heard?

10 Well, definitiially, for the purpose of this  
11 proceeding, I am prepared and I do treat them as attorneys  
12 for the Trustee --

13 MR. SHEEHAN: Yes.

14 THE COURT: -- and they have the same  
15 standing as the attorney for the Trustee for the purpose of  
16 my granting allowance and in considering the position of  
17 SIPC.

18 MR. SHEEHAN: Thank you, Your Honor.

19 The other unopposed application has been  
20 filed by Windels Marx, who is here in Court this morning.  
21 Alan Nisselson and Regina Griffin are here today, Your  
22 Honor.

23 As you well know, Your Honor, they have  
24 appeared already before you in a number of capacities on  
25 behalf of the Trustee.

1                   We have been working cooperatively with  
2                   that firm in connection with a number of matters, some of  
3                   which have involved corporations of which the Madoff family  
4                   and other third parties had an interest.

5                   Shortly you will be seeing complaints filed  
6                   with regard to at least two of them.

7                   In addition to them, there are a number of  
8                   insiders where we have had conflicts because of their  
9                   relationship to the corporate clients that we had. We  
10                  felt it was remote but nevertheless appropriate not to be  
11                  involved with those particular situation.

12                  We have asked Windels Marx to handle those  
13                  as well. They are not insignificant preference and  
14                  fraudulent conveyance actions.

15                  I know that myself and the Trustee had very  
16                  much enjoyed working with Windels Marx, but beyond that we  
17                  feel there has been work that has been superb and we  
18                  strongly move that it be approved.

19                  MR. BELL: On behalf of SIPC we filed  
20                  another recommendation in support of the fees requested by  
21                  Windels Marx and would support an order by this Court.

22                  THE COURT: Does anyone want to be heard?

23                  I will grant the request by Windels Marx.  
24                  It may very well be they come under the same statute,  
25                  78fff5c, based upon the consolidation order, and the

1 approval of this Court as well as the real fact that they  
2 have been working as attorneys in sort of a hybrid fashion  
3 and now in a more direct fashion for the Trustee.

4 MR. SHEEHAN: Your Honor, I would just  
5 point out that I will be turning to our application and  
6 that Mr. Picard, the Trustee, would like to address the  
7 Court.

8 MR. PICARD: Good afternoon, Your Honor.

9 THE COURT: Good afternoon.

10 MR. PICARD: Irving Picard, SIPA Trustee.  
11 This is my third application for interim compensation. It  
12 covers the four-month period ending January 31, 2010.

13 For the period I seek a total \$671,591.25,  
14 of which \$570,852.56 would be paid, and \$100,738.69 will be  
15 deferred until the further order of the Court.

16 I also seek reimbursement of actual and  
17 necessary expenses totalling \$77.66.

18 In connection with my fees, I would note  
19 that my fees start with a 10 percent discount for my hourly  
20 rates.

21 In addition, as noted in the applications  
22 that I will address in a little while, there are other  
23 hours that have not been billed for.

24 SIPC has filed a recommendation in support  
25 of the interim fee application. As I noted in my

1 application, the general estate will not be sufficient to  
2 pay administrative expenses, which included paying for the  
3 professional fees which are such as those you have already  
4 approved, mine and Baker Hostetler's.

5 Under the circumstances, SIPC is required  
6 to advance the funds to the Trustee to pay the amounts  
7 awarded. There is no difference between their  
8 recommendation and the amounts applied for. As you noted,  
9 this status provide that the Court should award the amounts  
10 recommended.

11 There is one objection that was filed by  
12 Diane and Roger Peskin, Maureen Ebel and a large group of  
13 investors. As set forth in the response papers that we  
14 have filed, the objection includes a number of arguments  
15 that have previously been rejected by Your Honor.

16 The motion for leave to appeal, the first  
17 fee application order was denied by the district court and  
18 the second one on the second application is still pending.

19 The crux of the objections are as I see it  
20 they are talking about, I have a conflict of interest.  
21 They both stood there and they attempted to bolster their  
22 argument by seeming to say since we have a disagreement on  
23 various legal issues, that both I and Baker Hostetler  
24 should be disqualified.

25 I personally and I am sure Baker does not

1 believe that provides a basis for disqualification and that  
2 is what was set forth in the response.

3 I won't belabor that point, Your Honor.  
4 During the period of my application, a substantial amount  
5 of time was spent in connection with moving customer claims  
6 and dealing with objections to determinations Your Honor.  
7 Your Honor had the briefing in that equity issue which you  
8 decided in March.

9 We started working on the next major group,  
10 by which you have entered a scheduling order in April, that  
11 will be heard during the fall.

12 Before that time, Your Honor, you will be  
13 seeing other objections coming before the Court on matters  
14 that do not raise some of the nitty-gritty issues and some  
15 of the more difficult issues and don't all fit together in  
16 one package.

17 The task of recovering assets is ongoing  
18 and, as you know, it is international in scope. As you  
19 have heard, we have six or so foreign counsel, many of whom  
20 have been instrumental in helping us locate people to  
21 depose and also helping us follow the trail.

22 My activities are generally set forth in my  
23 application. I also would refer Your Honor to the amended  
24 third interim report that was filed in April.

25 Next, turning to the claims, we received

1       16,312 customer claims from persons claiming to have lost  
2       money in the Ponzi scheme. That, of course, includes a  
3       substantial number of people who are relying on their  
4       November 30th statements.

5                     As I previously reported, Your Honor, in  
6       December of 2008, there were approximately 4,900 accounts  
7       that were opened. Thus, if you look at the bare numbers,  
8       we have received more than 11,400 claims from persons who  
9       did not have accounts in their respective names.

10                  Many of these latter people were entities  
11       invested through various types of funds, including pension  
12       or profit-sharing trusts, family partnerships, limited  
13       liability companies and the like.

14                  Each claim has a story and each one is  
15       reviewed before a determination letter is sent out.

16                  As of January 31, we had determined 11,861  
17       customer claims, allowing claims for more than 4.55 million  
18       and SIPIC, at that point, it committed approximately 629  
19       million dollars for advances.

20                  I am pleased to report that as of April 30,  
21       those numbers have increased.

22                  On January 31, we had determined  
23       approximately 72.7 percent and as of April 30, the number  
24       is above 76 percent.

25                  SIPC's commitment now is up to over 682.8

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1 million dollars.

2                   In addition, during that period we resolved  
3 a number of avoidance matters without requiring litigation  
4 for an amount totalling approximately 262.4 million  
5 dollars.

6                   Since then, there have been other  
7 recoveries, including 220 million dollars from the Levy  
8 family, and other recoveries that have been made during the  
9 claims processing period.

10                  We are very hopeful, Your Honor, in the  
11 very near future we will be announcing some significant  
12 settlements that will put us in a position to do an  
13 allocation and an interim distribution to customers. We  
14 are hopeful that the application will be filed and we could  
15 have a hearing as of, perhaps, as early as late summer or  
16 early fall.

17                  As set forth in my application during the  
18 four-month period, the major areas in which I devoted time  
19 out of the 947.7 hours, approximately 30 percent was spent  
20 in connection with claims review.

21                  Approximately 154 hours in attending to  
22 various Bankruptcy Court matters.

23                  133 hours were in case administration.  
24 About 10 percent of the time was concerned with the  
25 Trustee's investigation.

1                   Based on my normal hourly rates during the  
2 period I would be seeking expenses of 746,000 plus dollars.  
3                   But as I have indicated previously, I agreed with SIPC to  
4 reduce my hourly rate by 10 percent. That is a reduction  
5 of about \$75,000. So as a result, I'm requesting  
6 \$671,591.25 of which \$100,738.69 would be deferred.

7                   Additionally, in consideration of good  
8 billing practice I have written off or not billed  
9 approximately \$117,000. I seek the discounted amount at  
10 this time.

11                  I would also seek \$77.66, which are related  
12 to some long distance telephone calls and travel. As in  
13 lawful travel. In the past, as I have indicated, in both  
14 the application and to the Court, I will pay over to Baker  
15 Hostetler the full amounts of any interim compensation  
16 expense reimbursement that is awarded or paid.

17                  As I noted at the outset, SIPC has filed  
18 its recommendation in support of the Trustee's application.

19                  I would be happy to answer any questions  
20 that Your Honor may have.

21                  THE COURT: Does anyone want to be heard?  
22 Thank you. Thank you, Mr. Smith.

23                  MR. SMITH: We have an objection to both  
24 Mr. Picard and Baker Hostetler. So maybe it make sense  
25 for Mr. Sheehan to go on now and speak on behalf of Baker

1 Hostetler.

2 THE COURT: Very well.

3 MR. SHEEHAN: The arguments are well stated  
4 in the pleadings. Fees of \$23,884,085.25 is being sought  
5 and expenses of \$390,204.85 satisfied. The same arithmetic  
6 applies for counsel to the Trustee, as far as the discount  
7 and 15 percent holdback, Your Honor.

8 It is almost impossible for me here to  
9 summarize exactly what we have done. We have submitted to  
10 your Honor unredacted time sheets which are voluminous as I  
11 know Your Honor knows.

12 Suffice it to say there are multiple facets  
13 to this case requiring the attention of many attorneys.  
14 The difficulty in summarizing that is the size of it.

15 We have the customer claim process, for  
16 example, and right now there are over 2,700 objections, and  
17 that does not include the 1,900 that were filed with regard  
18 to the customer status issue that is part of the scheduling  
19 order.

20 In addition to that, Your Honor, there are  
21 4,000 outstanding claims all of which have been to be  
22 determined at this time. Many of which involve, Your  
23 Honor, individual issues, as Mr. Picard has indicated, of  
24 ownership.

25 All of those require both a legal and

1       factual analysis in order to determine the status of who  
2       the customers are as well as, obviously, the forensic  
3       accounting in terms of establishing the amount that may be  
4       due to the customer in the event of an allowed claim.

5                   Needless to say, countless hours were spent  
6       just on that and it is a top priority of the Trustee, and  
7       we will move as aggressively as we can move those customer  
8       claims going forward.

9                   In addition to those, there are, of course,  
10      other litigations that are filed before Your Honor and you  
11      are familiar with that, including Chais, which was argued  
12      before you this morning and many others, Picower, which is  
13      in settlement discussions as has been well reported and a  
14      number of others that are ongoing before Your Honor.

15                  In addition to those, there are literally  
16      dozens, if not hundreds of litigations that are being  
17      reviewed and contemplated in connection with the over 20  
18      billion dollars that was paid out in the short period of  
19      time of about 24 months prior to the demise of the BLMIS.

20                  Those constitute significant potential  
21      recoveries by the Trustee of customer property. We are  
22      doing our very best to deal with those in an applicable  
23      way. It may very well be before the end of the year there  
24      will be a significant number of claims that will be filed.

25                  The approach of the Trustee throughout with

1 regard to both large and small, people who are net winners  
2 and losers, who have received what we believe to be  
3 preference and fraudulent conveyances consisting of false  
4 profits, we have reached out to those folks.

5 And the feeder funds as well as the  
6 individual funds, they require a great deal of time but we  
7 believe it is the best approach. This is a case in which  
8 no one feels as though they win. Everyone feels as though  
9 they lost, the winner and the losers. We recognize that.  
10 We do our very, very best to work with them as best as we  
11 can to work out an accommodation if we can.

12 Those that are significant, obviously, Your  
13 Honor is going to see. Those that are small, and there  
14 are many that are very small, you don't as we are not  
15 required under the rules.

16 But in each and every case we are in  
17 contact with counsel especially with the feeder funds, but  
18 in connection also with many of other individuals in  
19 conducting our investigation and working out what we can in  
20 negotiations and settlement. If we can't do that, as I  
21 have said, we will see a lot of complaints. Those involve  
22 the feeder fundss throughout Europe, Caribbean, British  
23 Virgin Islands, the Caymans, and Bermuda. That is why we  
24 have all the counsel we retained, as each of those are  
25 very, very complicated.

1                   As is reflected in our time records, what  
2 we have found is that Mr. Madoff became a securitized debt.  
3 We found there are very sophisticated transactions  
4 involving major financial institutions as well as the  
5 feeder fundss, where multiple layers of debt were incurred  
6 funded by the Madoff returns. They were, as we all know,  
7 available for years and years and there were steady  
8 returns. They were just the kind of returns that people  
9 in the financial industry looked to securitize, to create  
10 those instruments, swaps, and credit the swaps.

11                  All of that is involved in the Madoff  
12 enterprise involving not just Mr. Madoff but also involving  
13 all the people with whom he dealt. These are enormously  
14 complicated an require a good deal of deconstruction and  
15 each one of those represents hundreds and hundreds of  
16 millions of dollars in potential recovery.

17                  The efforts you can see from our records  
18 reflect that as do things that don't appear necessarily in  
19 the Court's record but are reflected in Your Honor's review  
20 in the time records, but I can talk about them openly here,  
21 they are reflected in our investigations and it's well  
22 known to people on the other side. We are not doing  
23 things that counsel is not fully aware of because we are in  
24 negotiation with most of them before proceeding with  
25 litigation against them.

1                   We are well aware of the statute and we are  
2 well prepared to follow through with those if we have to.

3                   In addition to all that work, there is an  
4 ongoing array, a good deal of it before Your Honor, of what  
5 I would call individual litigation that occurs just in the  
6 administration of the estate. Whether it be seeking  
7 injunctive relief before Your Honor, whether it be dealing  
8 with various motion practices that we have that is not  
9 related to a specific litigation, and as Your Honor is  
10 aware, there is a good deal of that occurs as well.

11                  So we have multiple teams involved in each  
12 of those endeavors, as again it's reflected in our time  
13 records.

14                  I believe that all of the work and I know  
15 the SIPC Trustee agrees and supports it. We are reviewed  
16 very, very carefully. I prepare that bill along with some  
17 assistants working diligently every month. I could tell  
18 you for a fact there are many, many conversations with SIPC  
19 where they review specifically who is at a meeting, how  
20 many people are attending, how much time is spent, was it  
21 productive, what were you specifically seeking to do.

22                  This is by far not a rubber stamp. This  
23 is a very intensive review that takes place every month by  
24 SIPC, with regard to this at two levels. Both at the  
25 assistant general counsel, Mr. Bell, who is here, as well

1 as by general counsel herself.

2 So, Your Honor, when this arises before you  
3 it arises before you after having thoroughly been reviewed  
4 and approved by SIPC. I would respectfully ask Your Honor  
5 to approve our application.

6 MR. BELL: Your Honor, I thank Mr. Sheehan  
7 for his talk about the exhaustive review that SIPC does  
8 with regard to the Trustee and counsels monthly  
9 applications pursuant to this Court's monthly compensation  
10 order.

11 There are many discussions about the fees.  
12 There are many pages in the applications. I could advise  
13 the Court that each and every page is reviewed. Discussions  
14 are had and decisions are made, and SIPC after that review,  
15 with the concurrence of the Trustee and counsel, will  
16 follow the monthly procedures order and pay.

17 SIPC does that at two levels. At my level,  
18 I am the staff attorney on the case even though I have a  
19 title.

20 Then it is done by general counsel and the  
21 general counsel and I have engage in extensive discussions  
22 after I have had my extensive discussions with the Trustee  
23 and its counsel.

24 So the thoroughness of this review I could  
25 assure the Court where we say, carefully evaluated, I think

1 you could use the words that we exhaustively evaluate the  
2 applications. We take this responsibility extremely  
3 seriously.

4 So we have done the review and we have  
5 followed our recommendation by SIPC's general counsel, and  
6 we support the entry of an order for the approval of the  
7 applications as filed.

8 MR. SMITH: Good afternoon, Your Honor  
9 Peter Smith of Becker & Poliakoff, on behalf of the  
10 objection filed by the Peskins and other customers.

11 Your Honor, I will just address the issue  
12 of the most recent grounds contained in this objection, not  
13 the ones that reiterate or reiterate from the first two  
14 objections that were filed, but I would mention are subject  
15 to appeals. Specifically that the Trustee and his  
16 counsel's involvement in the Canavan adversary proceeding  
17 filed last month, around April 5 or so, in which the  
18 Trustee and counsel seek to enjoin an action filed in the  
19 district court in New Jersey. On April 13, Your Honor  
20 denied the application for a TRO.

21 The hearing on the preliminary injunction  
22 motion is rescheduled, pending some discovery disputes.

23 The Trustee and his counsel we believe had  
24 disqualifyed themselves, we believe, based on the positions  
25 they have taken in the adversary proceeding because they

1 have essentially argued the position of the defendants in  
2 that New Jersey action. Therefore, they are directly  
3 adverse to every customer who would benefit from a positive  
4 judgment in that proceeding.

5                   The Trustee and his counsel have made  
6 substantive and procedural defenses, asserted them on  
7 behalf of the defendants who are in the New Jersey action  
8 that even the defendants themselves in the action have not  
9 made.

10                  All the defendants in that action have done  
11 is to seek to have the action transferred here. When it  
12 gets here Your Honor will have a preview I suppose of all  
13 the defenses that they will raise.

14                  There is no basis, Your Honor, for them to  
15 have done that in their papers.

16                  I just want to give you a few examples of  
17 what was contained in the motion for preliminary  
18 injunction.

19                  THE COURT: This is a request for fees.

20                  MR. SMITH: What we argue, Your Honor,  
21 that is --

22                  THE COURT: I am hearing more of a defense  
23 with respect to the litigation that is pending before me.

24                  MR. SMITH: No, Your Honor, we will hear  
25 more of that I suppose in the weeks to come, but the issue

1 right here --

2 THE COURT: You say that they should not be  
3 asking for fees for their involvement in the New Jersey  
4 litigation.

5 MR. SMITH: I don't think I said that.

6 THE COURT: Isn't that what you are saying?

7 MR. SMITH: Their fees for whatever they do  
8 or have done in the New Jersey application are probably not  
9 part of the application because I think this one cut off in  
10 January.

11 THE COURT: But, nevertheless, it is their  
12 activities supports their argument that they have that it  
13 has disabled them for asking for fees because they are  
14 breaching some duties that they have.

15 MR. SMITH: I believe that the breach of  
16 duty is their loyalty to the customers. And I think it is  
17 very clear that any customer who would see those papers,  
18 and customers are aware of what is going on in those  
19 proceedings, they are aware of this fee application --

20 THE COURT: One wonders when one peels it  
21 away whether everyone under your theory could be disabled  
22 under those same theories.

23 MR. SMITH: Who else could be?

24 THE COURT: All counsel.

25 MR. SMITH: No, only the counsel who took

1 the position contrary --

2 THE COURT: That is an opinion that you  
3 have.

4 MR. SMITH: They are arguing the position  
5 of the defendants.

6 THE COURT: Let me hear you out.

7 MR. SMITH: Okay. Your Honor, the  
8 customers to whom the Trustee is supposed to be loyal can  
9 only view the complaint for the preliminary injunction in  
10 one way, which is that the Trustee and his counsel have put  
11 that aside in this regard with respect to the persons who  
12 the customers are suing to recover damages. For that  
13 reason it is impossible for there not to be an appearance  
14 of a conflict of interest between the Trustee and Baker  
15 Hostetler to whom they are supposed to be loyal in this  
16 proceeding.

17 For that reason, they should not receive  
18 their fee and there should at least be an evidentiary  
19 hearing as to whether they should be disqualified.

20 THE COURT: Thank you.

21 MR. SMITH: Your Honor.

22 MR. SHEEHAN: Your Honor, I don't intend  
23 to argue the motion here. I will say one thing. I would  
24 suggest there are a great many customers that would think  
25 what we are doing in terms of trying to preserve this

1 Court's jurisdiction in connection with the net equity  
2 ruling which is a whole thrust of why we are seeking to  
3 have that case enjoined and why the people in New Jersey  
4 are seeking to have it transferred here, there are a whole  
5 host of customers who have bought that argument. I will  
6 leave it out there.

7 MR. SMITH: Your Honor, I will say this  
8 quickly, if the only goal was to protect the net equity  
9 decision they would not have to raise defenses for the  
10 defendants. They could have stopped on the ground for the  
11 preliminary injunction without saying all of the things  
12 they said in their motion how the claims are without merit;  
13 however there are procedural problems with that complaint.  
14 They did not have to say anything further. They have yet  
15 to answer for why they did these things.

16 If it is not they are advocating on behalf  
17 of those defendants, why on earth did they do it? There is  
18 no basis for it. Thank you.

19 THE COURT: Thank you. I will overrule  
20 your objection. It is quite obvious that the objectors  
21 here are on the other side of many litigations with the  
22 Trustee.

23 It is always interesting that it would be  
24 part of the practice, and it shouldn't be to try to disable  
25 your adversaries or take a legal position based on the fact

1 you seek to disable counsel.

2                   But as I have pointed out in my statements  
3 previously, I think if one peels away all the interests  
4 that the various parties represent, one might find very  
5 easily an appearance of conflict of interest of counsel,  
6 and I could think of several areas which were involved in  
7 all of the litigations before me.

8                   What is clear to me, and one of the reasons  
9 I am rejecting the argument here, is that these objectors  
10 and their counsel have been very active in creating new  
11 litigation made of sandboxes in multiple jurisdictions,  
12 which in some form indicates a disagreement with the  
13 Court's net equity decision.

14                  It is understandable that the objectors  
15 would seek to have the Trustee disabled, but that is not a  
16 ground here for arguing against the consideration by this  
17 Court of the request for fees under 78 -- and I won't go  
18 through all of the Es -- when SIPC finds the fees  
19 appropriate and the disinterestedness of the Trustee has  
20 already been measured in the early part of the proceeding,  
21 that the statute has the words, "award the amounts  
22 recommended."

23                  I find no basis for finding that the  
24 Trustee should be found to have an appearance of a conflict  
25 of interest. As a matter of fact, I think there is an

1                   obligation wherever the administration of the Madoff estate  
2                   is implicated for the Trustee to appear and deal with  
3                   that.

4                   That essentially is the main argument that  
5                   is being made today, the additional argument that is being  
6                   expressed.

7                   If you bring on litigation, it is obvious  
8                   that the Trustee has to go and react to it if that  
9                   litigation implicates the administration of the estate, and  
10                  that is apparently is the case here.

11                  Objection is overruled. The decision is  
12                  reserved with respect to all motions thus heard.

13                  MR. SHEEHAN: Your Honor, I have an order  
14                  that I would like to submit, if I may approach.

15                  THE COURT: Yes.

16                  MR. SHEEHAN: Thank you, Your Honor.

17                  THE COURT: It is unfortunate but more  
18                  litigation, more fees.

19                  I have approved the order.

20                  MR. SHEEHAN: Thank you very much, Your  
21                  Honor. Thank you for all your time.

22                  THE COURT: Thank you.

23

24                  \*                 \*                 \*

25

1 C E R T I F I C A T E

2

3 STATE OF NEW YORK }  
4 COUNTY OF NEW YORK }  
5

} ss.:

6

7 I, MINDY CORCORAN, a Shorthand Reporter  
8 and Notary Public within and for the State of New York, do  
9 hereby certify:

10 That I reported the proceedings in the  
11 within entitled matter, and that the within transcript is a  
12 true record of such proceedings.

13 I further certify that I am not related, by  
14 blood or marriage, to any of the parties in this matter and  
15 that I am in no way interested in the outcome of this  
16 matter.

17 IN WITNESS WHEREOF, I have hereunto set my  
18 hand this 5th day of May, 2010.  
19

Mindy Rothman-  
Corcoran

  
Digitally signed by Mindy Rothman-  
Corcoran  
DN: cn=Mindy Rothman-Corcoran, c=US  
Reason: I am the author of this document  
Date: 2010.05.10 15:05:41 -04'00'

20 MINDY CORCORAN

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